THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

–

W.P.No.32160 of 1997

–

Between
Bangaru Sitaramanjaneya Gupta and another ..Petitioners

AND

The District Collector, West Godavari district and others ..Respondents

JUDGMENT

28.2.2007

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.32160 of 1997

ORDER:

The petitioners have instituted this writ petition seeking a writ of mandamus to direct the respondents to restore the concrete slabs which were covering the drain, so that the right of ingress and egress into the shops belonging to the writ petitioners situated within the Municipal limits of Palacole in West Godavari District is not effected.

The writ petitioners have traced the history of the case by pointing out that the local Municipal Council as long back as on 27.11.1934 had accorded them the permission to construct the drain in front of their houses at their own cost and accordingly, they have not only constructed the drain, but they have also adequately and appropriately covered the same so as to prevent any untoward incident taking place. Since the local Municipality had started effecting some improvements to the drainage system, it has resulted in removal of the drain covers and the writ petitioners have come about to institute this writ petition.

Counter is not filed by the local Municipal Council inspite of ten years of time has elapsed. It is obvious that the local Municipality is sleeping over the matter and is not interested in contesting the case which is instituted against it. But however, in view of the fact that for a very long time, based upon the resolution passed on 27.11.1934, the writ petitioners have not only constructed the drain, but also adequately and appropriately covered the same, it is only appropriate

for the local Municipality before resorting to any action of removing such drainage covers, to put the petitioners and other similarly placed persons on notice of their intentions by providing atleast thirty days' time for them to make alternative arrangements, inasmuch the uncovered open drains can cause lot of inconvenience, injuries and damage not only to the property but also to the person. It will be unsafe to expose them and it will also be causing public nuisance as exposed drains can be a breeding ground for various kinds of insects. It is also against the public hygiene and health which the respondent Municipality is entrusted to safeguard.

For the sheer failure of the respondent Municipality to place before this Court the matter and material and as there is no response from the respondent Municipality inspite of granting adequate time by this Court from 24.1.2007, I consider it appropriate to dispose of the writ petition in terms aforementioned, without waiting any further. I hold the respondent Municipality as squarely responsible and liable for the extreme delay that was caused in having this case decided. Therefore, the respondent Municipality is directed to pay a sum of Rs.1,000/- to the Andhra Pradesh State Legal Services Authority attached to this Court as penalty within two weeks and later on the same shall be recovered from the Commissioner of the Municipality from out of his salary.

_____

NOOTY RAMAMOHAN RAO.J.

28.2.2007
psr